DETAILED ACTION

Claims 1-18 and 22-41 have been examined. Claims 19-21 have been cancelled.

This action is made **Final.**

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 22,23, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,324,654 of Wahl et al. referred hereinafter "Wahl" in view of US Patent No. 5,623,597 of Kikinis.

Regarding claim 22, Wahl discloses the method for data protection, comprising:

accepting data from a data source for storage in a primary storage device located at a local site (see column 6 lines 15-20).

periodically sending the data for backup in a backup storage device located at a remote site by means of a sequence of backup operations (see column 6 lines 21-25).

temporarily storing in a storage unit which is collocated with the primary storage device at the local site, records associated with at least part of the data that is accepted during a time interval between successive backup operations in the sequence (see column 20 lines 20-25)

when an event damaging at least some of the data in the primary storage device occurs during the time interval, reconstructing the data using the records stored in the storage unit. Wahl discloses if the primary computer system crashes, upon recovery…. , the two most current data updates in the writelog device 18 are written to the local data device (see column 10 lines 5-10).

However, Wahl fails to explicitly disclose:

a disaster-proof storage.

Kikinis discloses a fireproof data safe containing a data storage system and a cooling system for use in protecting stored information from theft, fire, and other catastrophe (see column 3 lines 22-25 and 38-40).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wahl and Kikinis to have a fireproof safe containing a data storage system, thus indicating a disaster proof storage. A person of ordinary skill in the art at the time of the invention could have been motivated to combine the teachings because Wahl is concerned with protecting data at time of a disaster (see column 24 lines 20-25) and having the records stored in a fireproof data safe, as per teachings of Kikinis (see column 3 lines 22-25 and 38-40), and protects stored information from theft, fire, and other catastrophe.

Regarding claim 23, Wahl discloses the method for data protection, comprising:

accepting data for storage from a data source (see column 6 lines 15-20).

sending the data for storage in a primary storage device located at a local site, while mirroring the data in a secondary storage device located at a remote site (see column 6 lines 21-25).

temporarily storing at least part of the data in a storage unit collocated with the primary storage device at the local site (see column 20 lines 20-25).

when an event damaging at least some of the data in the primary storage device occurs at the site, reconstructing the data using the at least part of the data stored in the storage unit. Wahl discloses if the primary computer system crashes, upon recovery... , the two most current data updates in the writelog device 18 are written to the local data device (see column 10 lines 5-10).

However, Wahl fails to explicitly disclose:

a disaster proof storage.

Kikinis discloses a fireproof data safe containing a data storage system and a cooling system for use in protecting stored information from theft, fire, and other catastrophe (see column 3 lines 22-25 and 38-40).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wahl and Kikinis to have a fireproof safe containing a data storage system, thus indicating a disaster proof storage. A person of ordinary skill in the art at the time of the invention could have been motivated to combine the teachings because Wahl is concerned with protecting data at time of a disaster (see column 24 lines 20-25) and having the records stored in a fireproof data

safe, as per teachings of Kikinis (see column 3 lines 22-25 and 38-40), and protects stored information from theft, fire, and other catastrophe.

Regarding claim 41, Wahl discloses the computer software product for data protection, the product comprising a computer-readable medium, in which program instructions are stored, which instructions, when read by a computer, cause the computer to

accept data from one or more data sources sent for storage in primary and secondary storage devices, which are located respectively in a local site and a remote site, (see column 6 lines 15-20).

and to temporarily store a record associated with the data in a storage unit collocated with the primary storage device at the local site, while awaiting an indication of successful storage of the data in the secondary storage device (see column 20 lines 20-25),

However, Wahl fails to explicitly disclose:

a disaster proof storage.

Kikinis discloses a fireproof data safe containing a data storage system and a cooling system for use in protecting stored information from theft, fire, and other catastrophe (see column 3 lines 22-25 and 38-40).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wahl and Kikinis to have a fireproof safe containing a data storage system, thus indicating a disaster proof storage. A

person of ordinary skill in the art at the time of the invention could have been motivated to combine the teachings because Wahl is concerned with protecting data at time of a disaster (see column 24 lines 20-25) and having the records stored in a fireproof data safe, as per teachings of Kikinis (see column 3 lines 22-25 and 38-40), and protects stored information from theft, fire, and other catastrophe.

Response to Arguments

Applicant's arguments pertaining to claims 22,23, and 41 have been fully considered but they are not persuasive. Claims 22,23, and 41 fail to disclose limitations set forth in the other allowable claims. For reason stated in the rejection above, such claims remain rejected.

Allowable Subject Matter

Claims 1-18 and 24-40 are allowable over the prior art of records.

The following is an Examiner's statement of reasons for the indication of allowable subject matter: Claims 1-18 and 24-40 are allowable over the prior art of record because the Examiner found neither prior art cited in its entirety, nor based on the prior art, found any motivation to combine any of the said prior arts.

The primary reason for allowance for claims 1 is the inclusion of when an event damaging at least some of the data in the primary storage device occurs, reconstructing the data using the record stored in the disaster-proof storage unit and at least part of the

data stored in the secondary storage device in conjunction with the rest of the limitation set forth in the claim.

The primary reason for allowance for claims 24 is the inclusion of when an event damaging at least some of the data in the primary storage device occurs, to provide the record so as to enable reconstruction of the data using the record stored in the disaster-proof storage unit and at least part of the data stored in the secondary storage device in conjunction with the rest of the limitation set forth in the claim.

The primary reason for allowance for claims 26 is the inclusion of when an event damaging at least some of the data in the primary storage device occurs, to provide the record so as to enable reconstruction of the data using the record stored in the memory device and at least part of the data stored in the secondary storage device in conjunction with the rest of the limitation set forth in the claim.

The remaining claims, not specifically mentioned, are allowed because they are dependent upon one of the claim mentioned above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

See PTO-892.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMERSON C. PUENTE whose telephone number is (571)272-3652. The examiner can normally be reached on 9-6 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 571-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Emerson C Puente/
Primary Examiner, Art Unit 2113